

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The text is centered within the hourglass.

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Preparation for Senate Committee Markup

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August 30, 2007

Abstract. Markup is the critical legislative stage where a committee chooses the language of a measure it expects to report to the Senate. Markups are carefully planned in advance. By the day of the markup, important requirements of Senate rules have been met, political decisions have been made, and administrative issues have been addressed.

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Markup is the legislative stage during which a committee chooses the language of a measure it expects to report to the Senate.¹ Markups are carefully planned in advance to insure that the requirements of Senate rules have been met, political decisions have been made, and administrative issues have been addressed. For more information on legislative process, see <http://www.crs.gov/products/guides/guidehome.shtml>.

Scheduling and Notification

A variety of Senate rules and procedures (as well as political factors) affect the scheduling of a committee markup. The chair of a committee usually exercises control over the committee's markup schedule as well as the agenda for markups. Specific Senate rules governing meeting times are designed to minimize interruptions of deliberations and scheduling conflicts. Standing committees in the Senate are authorized to meet when the Senate is in session as well as when it has recessed or adjourned (Rule XXVI, paragraph 1.) However, committee meetings (except of Appropriations and Budget) are restricted when the Senate is also meeting (Rule XXVI, paragraph 5(a)). A committee may not meet on any day after the Senate has been in session for 2 hours, or after 2:00 p.m. when the Senate is in session, whichever is earlier. In practice the rule is routinely waived by unanimous consent; it also may be waived by joint agreement of the party leaders. Senate rules also restrict committees to meeting during specified time periods; committees do not always adhere rigorously to these restrictions (Rule XXVI, paragraph 6).

Each Senate committee is further required to notify the Office of the Daily Digest of the *Congressional Record* when any markup is scheduled (pursuant to Senate standing order, Title IV of S.Res. 4, 95th Congress), including the time, place, and purpose of the markup, and any changes or cancellations as they occur. The Daily Digest Office enters this information into the Senate's computerized scheduling system, and this information is published in the *Record*. Additional notification requirements may be contained in individual committee rules. For example, some committees require that each committee member receive an advance written notice of a markup along with an agenda for the session.

Senate Rule XXVI, paragraph 3, sets forth certain requirements for the frequency of committee meetings. Each standing committee (except Appropriations) is required to adopt a regular meeting day, which must be at least monthly, for purposes including the markup of legislation. A committee chair may schedule additional markup meetings as necessary. A majority of a committee also can call a markup, but this rarely occurs (Rule XXVI, paragraph 3).

Before scheduling a markup, a committee might first seek to determine that a quorum is likely to be present. Although the minimum quorum to conduct a markup is at least one-third of a committee (Rule XXVI, paragraph 7(a)(1)), at least one committee has required a majority to mark up. Several committees have adopted rules requiring that quorums for conducting routine business, including markups, must include at least one member of the minority.

¹ This report was written by Thomas P. Carr who was an Analyst at the Congressional Research Service. Mr. Carr has passed away, but the analyst now listed as the author can respond to inquiries on the subject.

Documentation

A committee must choose one text as the basis for its markup, and in practice choosing this vehicle is the prerogative of the chair (see CRS Report 98-244, *Markup in Senate Committee: Choosing a Text*). The rules of some committees have stipulated that each committee member receive an advance copy of the measure to be marked up. Committee staff typically distribute a copy of the markup vehicle, along with related summaries, explanations, statements, or talking points they have prepared. Some committees require advance submission of first degree amendments Senators intend to offer during markup. Senators often bring copies of other amendments they intend to offer, and Senate rules require that amendments be in writing on demand of any Senator (Rule XV, paragraph 1). Prior to the meeting, Committee staff may provide each member a package of submitted amendments; alternately, amendments may be distributed individually as offered.

Administrative Matters

Logistical arrangements such as reserving a meeting room and arranging for a reporter of debates are handled by a committee's administrative staff. Other details concerning the physical set up of the room, such as arranging items on the dais, reserving seats, and turning on audio consoles, microphones, and lighting are also handled by committee administrative staff, or the Architect of the Capitol. Placement of television cameras, and assigning space for journalists, may be covered by committee rules. If necessary, security during a markup can be arranged with the Capitol Police.

Closing and Broadcasting

A committee usually will decide in advance if a markup needs to be closed to the public. A committee can close a markup by rollcall vote by a majority of the committee, for reasons listed in Senate rules (Rule XXVI, paragraph 5(b)), such as if the session involves national security information.

Markups that are open to the public may be broadcast, and a committee may develop its own procedures for broadcasting (Rule XXVI, paragraph 5(c)). Committee press aides typically employ diverse techniques for attracting and managing media coverage of markups. These include mailing calendars listing upcoming markups, issuing press releases, preparing packets of material, and organizing press conferences.

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